

General Information Letter: Compensation earned in a foreign country and excluded from federal adjusted gross income is excluded from base income.

September 14, 2005

Dear:

This is in response to your letter dated August 31, 2005, which was received by this office on September 8, 2005, in which you request advice. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

The nature of your question and the information provided require that we respond only with a GIL.

In your letter you state in part as follows:

The purpose of this letter is to confirm that I am exempt from paying Illinois state taxes for the period of which I am living overseas.

I left my family in March 2005 to begin work at AIR BASE, Germany, where we owned a home in CITY, IL. My wife sold the house a few weeks later and joined me with the remainder of the family. I'm currently employed by COMMUNICATIONS, CORPORATION, as a DOD CONTRACTOR and have been granted exempt status from U.S. Federal taxes (not to exceed \$85,000 as I understand it). I want to confirm that I also am exempt from Illinois taxes, while claiming Illinois as my legal state of residence (while overseas).

I understand that I'll be filing a return for the taxes I paid earlier in the year.

DEPARTMENT RESPONSE:

We assume that you are an Illinois resident, given the information provided.

A person's Illinois tax calculation starts at Line 1 with his or her federal adjusted gross income (FAGI). To this figure, certain items peculiar to Illinois are added and subtracted. The sum of the Illinois-allocable amounts is transferred to and reported on Line 14 of the IL-1040. This remaining amount, less an individual's allowable personal exemptions, is that person's Illinois taxable income.

Internal Revenue Code (IRC) Section 911 provides that a qualifying individual may exclude from gross income up to \$80,000 of "foreign earned income." This is the tax benefit referenced in your correspondence and the supplemental materials provided by your employer, which you forwarded to

me via email. To the extent that you qualify for the IRC 911 foreign earned income exclusion for the period from March 2005 through the end of that taxable year, the first \$80,000 of income you earn as an overseas DOD CONTRACTOR will be excluded from your federal gross income, and thus your federal adjusted gross income – the starting point for the Illinois income tax computation. Because there is no Illinois addition modification requiring the add-back of the excluded foreign earned income, it will escape Illinois income taxation.

Any other income you earn for taxable year 2005, including wage income for the period prior to March 2005, may be subject to Illinois income tax. You must file an Illinois Individual Income Tax return (IL-1040) for 2005 if you file a U.S. 1040 or if you owe Illinois income tax on your other income.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,
Senior Counsel-Income Tax